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In The United States District Court
For The Middle District Of Alabama

2007 OCT 23 A.D. 2007
DEBRA P. HACKETT, C.
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

Roy Lee McAfee 147346

Plaintiff

(Original)

vs.

Case No. 2:07-CV-692-WKW

Bob Riley et, al.,

Defendants

Motion For Leave To Amend Facts

Comes now Roy Lee McAfee, the plaintiff in the above styled cause and moves this Honorable Court to grant this Motion for Leave To Amend Facts and in support thereof states the following:

1. Plaintiff has need to amend the facts in order to present a more accurate and concise response to the defendants Special Report and the Recommendation Of The Magistrate Judge. [REDACTED]
2. The Amendment Of Facts being sought will not change in any substantial way the underlying Constitutional claims raised as the basis for the complaint.
3. Plaintiff, as he has proposed to the Court on prior occasions, is laboring under conditions which are remarkably less than ideal for the undertaking of serious legal research and hence, it is through no fault of plaintiff that the original complaint did not adequately reflect the issues plaintiff anticipates bringing before the Court within the parameters of the Constitutional claims that have been raised as

the basis for the complaint.

4. The Amendment Of Facts will not be prejudicial to the defendants as they have at their disposal a vast array of resources which gives them a decided advantage and ability to respond.

5. It is only now, after accumulating more hours with access to legal resources, that plaintiff has been able to concretely and accurately define the issues.

6. It would be manifestly unjust, as this phrase is defined in Judicial Language, not to let this Motion issue.

The reasons for the issuance of the Motion For Leave To Amend Facts having been stated, the following are facts that I am asking the Courts permission to include in the complaint:

1. Facts in addition to the harshness and inescapability of CNA under the Bill of Attainder Clause:

- (A) CNA violates the Separation of Powers doctrine within the parameters of the Bill of Attainder Clause.
- (B) CNA's language creates reputational injury.
- (C) CNA uses language that has only one contextual purpose and that is the infliction of punishment.
- (D) CNA violates the Bill of Attainder Clause in that it does not require a showing of "specific intent" before application of its mandates.

2. Facts in addition to the increase in punishment inflicted by CNA under and prohibited by the Ex Post Facto Clause:

- (A) CNA violates the Ex Post Facto Clause prohibition of vindictive

legislation is that it contains no provision to alleviate the harm that will be inflicted upon those who have an inability to comply with CNA mandates.

(B.) CNA of Alabama violates the Ex Post Facto Clause in that it has the effect of a historical shaming punishment.

(C.) CNA of Alabama violates the Ex Post Facto Clause in that it uses inaccurate and misleading information which brings reprobation related stigma.

3. Facts in addition to the absence of a hearing under the Due Process Clauses - "General rules of due process are merely referred to as the Due Process Clauses." Kelley vs Johnson 47 Led 2d at 978.

(A) CNA is essentially a Civil Commitment statute which is being inappropriately applied through the criminal justice system which allows the State to circumvent the procedural protections that civil commitment proceedings require.

B. CNA is a violation of the Bill of Rights prohibition against Cruel and unusual treatment made applicable to the States through the Due Process Clauses in that it uses "penal institutions" to inflict punishment upon, and to effect behavior modification, in people whom the statute defines as mentally ill and dangerous.

C. CNA sets conditions - "mandates" - for me to live by based on the determination that I am mentally ill and dangerous, but deprives me of any substantive services which would enable me to live free of the involuntary confinement which ensues if I violate these conditions. i.e. treatment for the underlying mental illness, job training etc.

D. CNA violates substantive due process requirements in that in

certain stages of its application it places such a powerful limitation on a persons ability to act on their own behalf that it thereby creates a "special relationship" between such person and the State to the extent that the State is obligated under Constitutional principles to provide such services to the person that he cannot provide for himself because of the state imposed limitations i.e., food, clothing, shelter, employment services etc.

Conclusion

With the above premises considered the plaintiff prays that this Honorable Court will recognize his need to incorporate the foregoing additional facts into the instant complaint.

Respectfully submitted this 22nd day of October 2007.

Roy McAfee 147346
Plaintiff

Certificate of Service

I, Roy Lee McAfee, do hereby certify that I have served a true and correct copy of the foregoing Motion for Leave To Amend Facts upon the defendants Bob Riley et.al, by placing same, postage pre paid, in the United States Mail.

Done this 22nd day of October 2007.

Roy McAfee 147346
Affiant

10/23/2007
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